

Appeal Reference CAS-01840-M4B7T8

1.0 THE SITE

- 1.1 The appeal site is located on land to the south west of The Old Black Horse Public House, High Street, Rhostyllen, Wrexham, LL14 4AG

2.0 PROPOSAL

- 2.1 P/2021/0521 - Removal of Condition 09 of Planning Permission P/2016/0809

- 2.2 Planning permission was refused to remove the condition on 04.10.2021 for the following reason:

The continued use of the western access will have a detrimental impact upon highway safety and therefore the removal of the condition conflicts with policy GDP1(d) of the Wrexham Unitary Development Plan.

3.0 PLANNING HISTORY

- 3.1 P/2016/0809 - Outline Application for Residential Development (3 No. Dwellings)

4.0 LOCAL AND NATIONAL PLANNING CONTEXT

- 4.1 Planning Policy Wales (PPW) Edition 11.
- 4.2 The site lies inside of settlement limit as defined in the current development plan for the area, which is the Local Development Plan (LDP) 2013 - 2028. Policy DM1 is applicable
- 4.3 At the time the decision was made, the relevant development plan for the area was the Wrexham Unitary Development Plan (UDP) 2005. Policy GDP1 was applicable.
- 4.4 Copies of the relevant policies are contained within the submitted questionnaire bundle.

5.0 COUNCIL'S STATEMENT OF CASE

- 5.1 This Council is aware that, by the digging of a trench and the laying of the concrete on 25/07/2022, a material operation took place on site, commencing planning permission ref: P/2016/0809. In doing so however, without first discharging a true condition precedent (drainage condition no.7), it is the Council's opinion that the commencement of development was unlawful and the works carried out may have invalidated this planning permission.

- 5.2 The background for the requirement to close the existing vehicular access adjacent to the public house (known as the western access), is contained within the committee report, already provided within the submitted questionnaire bundle.
- 5.3 Whilst the reasons for non-compliance with condition 09 are understood, this Council is concerned that the continued use of the western access alongside the vehicular access approved for the housing development (known as the eastern access), would be detrimental to the safety of all road users.
- 5.4 Since this Outline permission was granted, a TRO in the form of double yellow lines has been implemented across the site frontage which has increased traffic speeds along this stretch of road. Visibility at the western access is significantly reduced by the public house and it is not acceptable to use the eastern access to serve new housing so close to this substandard western access point.

6.0 CONCLUSION

- 6.1 As it is no longer possible for the substandard western access to be closed, the increased use of the eastern access is no longer considered suitable. To remove condition 09 would give rise to highway safety issues contrary to UDP Policy GDP1 and LDP Policy DM1.
- 6.2 For the reasons set out above, this Council respectfully requests that the Appeal be dismissed. Should the Appeal be allowed, imposition of the following planning conditions is suggested:

6.2.1 – Conditions:

1. The development hereby permitted shall be commenced before ?????? in accordance with the layout, scale, appearance and landscaping plans approved on 27/07/2020 under Reserved Matters Approval reference P/2020/0079.
2. No land drainage run-off or surface water shall be permitted to discharge or connect to the public sewerage system, either directly or indirectly, and foul and surface water shall be drained separately from the site.
3. Details of proposed finished floor levels and ridge heights shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application. The development shall be carried out in strict accordance with the details as are approved.

4. The contents of the indicative site plan submitted in support of this application shall not be regarded as representing an approved site layout or scale of development.
5. No part of the development shall commence until a scheme for the comprehensive and integrated drainage of the site indicating how foul water, surface water and land drainage will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in accordance with a timescale to be agreed as part of the submitted details and maintained thereafter.
6. All works in relation to the implementation of this permission, including deliveries to and / or leaving the site, shall be undertaken only between the hours of 7.30 and 18.00 Monday to Friday, and 08.00 to 14.00 on a Saturday, and at no time on a Sunday or a Bank Holiday unless the prior written approval of the Local Planning Authority has been obtained.
7. There shall be no gates or other means of enclosure across the vehicular access point within 15 metres of the highway boundary.
8. Prior to first use of the development, the proposed vehicular access shall be laid out in strict accordance with approved plan no. 16021 - SK161201.1. The visibility splays shall thereafter be permanently retained free of all obstruction in excess of 1 metre in height.
9. Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 15 metres behind the adjoining highway.
10. No part of the development shall commence until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in strict accordance with the Method Statement as is approved. The Method Statement shall include the following:
 - a) A specification for tree protection fencing and ground protection measures that comply with British Standard 5837:2012;

- b) A Tree Protection Plan showing the location of the trees to be removed and retained with their crown spreads, Root Protection Areas, Construction Exclusion Zones, and location of protective fencing and ground protection measures accurately plotted;
 - c) A full specification for any access, driveway, path, underground services or wall foundations within retained tree Root Protection Areas or Construction Exclusion Zone, including any related sections and method for avoiding damage to retained trees;
 - d) Details of general Arboricultural matters including proposed practices with regards to cement mixing, material storage and fires;
 - e) Details of the frequency of supervisory visits and procedures for notifying the findings of such visits to the Local Planning Authority;
 - f) Method for protecting retained trees during demolition works;
 - g) Details of all proposed tree works, including felling and pruning.
11. No part of the development shall commence until full details for the Arboricultural supervision of tree protection measures and any ground works within retained tree(s) Root Protection Areas, as specified by BS5837:2012 or as shown on a Tree Protection Plan have been submitted to and approved in writing by the Local Planning Authority. The supervisory works shall be carried out in strict accordance with the details as approved.

6.2.2 Reasons:

1. To comply with section 71ZA (2) of the Town and Country Planning Act 1990.
2. To protect the integrity of the public sewerage system and prevent hydraulic overloading of the public sewerage system. To protect the health and safety of existing residents and to ensure no detriment to the environment in accordance with Policy DM1 of the Local Development Plan.
3. To protect the amenities of the occupiers of nearby properties in accordance with Policy DM1 of the Local Development Plan.
4. To ensure that all details are reserved for future consideration in accordance with Policy DM1 of the Local Development Plan.

5. To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system in accordance with Policy DM1 of the Local Development Plan.
6. To protect the amenities of the occupiers of nearby properties in accordance with Policy DM1 of the Local Development Plan.
7. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access in accordance with Policy DM1 of the Local Development Plan.
8. To ensure the formation of a safe and satisfactory access in accordance with Policy DM1 of the Local Development Plan.
9. To ensure that no deleterious material is carried onto the highway, in the interests of highway safety in accordance with Policy DM1 of the Local Development Plan.
10. To ensure the work is carried out to accepted arboricultural practices for the long term wellbeing of the tree(s) in accordance with Policy DM1 of the Local Development Plan.
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